

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL CASE NO. 3:07CV439**

|   |   |                     |
|---|---|---------------------|
| <b>J &amp; J SPORTS PRODUCTIONS, INC.,</b>      | ) |                     |
|   | ) |                     |
| <b>Plaintiff,</b>                               | ) |                     |
|   | ) |                     |
| <b>vs.</b>                                      | ) | <b><u>ORDER</u></b> |
|   | ) |                     |
| <b>LEAH PATRICE LYNN, d/b/a,</b>                | ) |                     |
| <b>Situations Bar &amp; Grill a/k/a</b>         | ) |                     |
| <b>Situations Lounge, and</b>                   | ) |                     |
| <b>SITUATIONS, INC., d/b/a Situations</b>       | ) |                     |
| <b>Bar &amp; Grill a/k/a Situations Lounge,</b> | ) |                     |
|   | ) |                     |
| <b>Defendants.</b>                              | ) |                     |
| _____   | ) |                     |

**THIS MATTER** is before the Court on the Memorandum and Recommendation [Doc. 12] of United States Magistrate Judge David C. Keesler, filed July 16, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge David C. Keesler, was designated to consider the Defendants' Motion to Dismiss Count II of the Plaintiff's Complaint [Doc. 8, filed January 8, 2008] and to submit to this Court recommendations for the disposition of the motion.

On July 16, 2008, the Magistrate Judge filed a Memorandum and Recommendation in this case containing a recommendation to dismiss Count II of the Complaint. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within ten days of service of the Recommendation and that failure to file objections would constitute a waiver of the right to review by the District Court. The period within which to file objections expired on August 4, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the Magistrate Judge's recommendation to dismiss Count II of the Complaint is supported by the record and consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that Count II of the Complaint be dismissed.

**IT IS, THEREFORE, ORDERED** that the Defendants' Motion to Dismiss Count II of the Plaintiff's Complaint [Doc. 8] is hereby **GRANTED**.

Signed: August 5, 2008

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

